



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

October 3, 1975

The Honorable Ogden Bass
District Attorney
Brazoria County
Angleton, Texas 77515

Opinion No. H- 707

Re: Power of a city to authorize
late hours permits for private
clubs.

Dear Mr. Bass:

Incorporated cities in a county of less than 300,000 population may adopt late drinking hours. Penal Aux. Laws, art. 667-10(b)(3). You ask whether a city may adopt an ordinance which would permit late hour service of alcoholic beverages at private clubs only.

Article 666-15e, section 7(g), Penal Auxiliary Laws, provides that a club which has obtained a Private Club Late Hours Permit "shall be entitled to cause, permit and allow service and consumption of alcoholic beverages on the club premises during the additional hours authorized by such permit."

Article 666-15f provides:

A Private Club Late Hours Permit shall authorize the holder thereof to permit persons to consume or be served alcoholic beverages on club premises on Sunday between the hours of 1:00 a.m. and 2:00 a.m. and on any day except Sunday between the hours of 12:00 p.m. and 2:00 a.m. if the premises covered by such permit are in an area where consumption or service of alcoholic beverages in a public place during such hours is authorized by this Act.

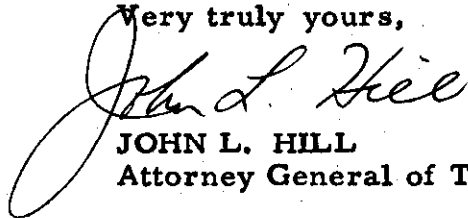
Thus a Private Club Late Hours Permit authorizes the service and consumption of alcoholic beverages on club premises only during those additional hours during which consumption or service of alcoholic beverages is permitted in a public place. See Article 667-10(b)(3), Penal Aux. Laws.

In our opinion the statutory law clearly prohibits a private club from permitting the late hour consumption of alcoholic beverages unless the club has obtained a Private Club Late Hours Permit and unless the consumption of alcoholic beverages is permitted during such hours in public places in the area containing the club. Any municipal ordinance which would permit that which is statutorily prohibited would be void. Tex. Const. art. 11, § 5; Attorney General Opinion M-1232 (1972). Accordingly, in our opinion an ordinance of a home rule city which would permit late hour service and consumption of alcoholic beverages at private clubs but not in public places would be void and ineffective.

SUMMARY

An ordinance of a home rule city which would permit late hour service and consumption of alcoholic beverages at private clubs but not in public places would be void and ineffective.

Very truly yours,



JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant
C. ROBERT HEATH, Chairman
Opinion Committee

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